

APPEAL NO. 030879  
FILED MAY 22, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 30, 2003. The hearing officer resolved the disputed issues by deciding that the compensable injury of \_\_\_\_\_, does extend to include disc herniation at L3-4 and that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth quarter (September 4 through December 3, 2001), sixth quarter (December 4, 2001, through March 4, 2002), seventh quarter (March 5 through June 3, 2002), eighth quarter (June 4 through September 2, 2002), or ninth quarter (September 3 through December 2, 2002). The claimant appealed, arguing that the determinations of nonentitlement to SIBs are wrong, manifestly unjust, and go against all of the evidence presented. The claimant further argues that the appropriate legal standards were not applied. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that he reached maximum medical improvement with an impairment rating of 15% or greater; that he has not commuted any portion of his impairment income benefits; that the qualifying period for the fifth quarter of SIBs is from May 23 through August 21, 2001; that the qualifying period for the sixth quarter of SIBs is from August 22 through November 20, 2001; that the qualifying period for the seventh quarter of SIBs is from November 21, 2001, through February 19, 2002; that the qualifying period for the eighth quarter of SIBs is from February 20 through May 21, 2002; and that the qualifying period for the ninth quarter is from May 22 through August 20, 2002.

The claimant seeks to show that he has made a good faith effort to obtain employment commensurate with his ability to work because he had a total inability to work. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The hearing officer found for each qualifying period at issue that the claimant failed to establish by a preponderance of the evidence that he was unable to perform any type of work in any capacity and that he did not provide a narrative report from a doctor which specifically explains how the injury caused a total inability to work. Those determinations are supported by sufficient evidence.

The questions of whether the claimant is unable to work and whether a narrative report specifically explains how the injury caused a total inability to work are factual questions. See Texas Workers' Compensation Commission Appeal No. 000177, decided March 16, 2000. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750  
AUSTIN, TEXAS 78701.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge